

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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COMMISSIONS IMPORT EXPORT S.A.,	:	Case No. 14 Misc. 0187
	:	
Plaintiff-Judgment Creditor,	:	
	:	
- against -	:	<u>AFFIDAVIT OF</u>
	:	<u>ALAN HALPERN</u>
	:	
REPUBLIC OF THE CONGO,	:	
	:	
Defendant-Judgment Debtor.	:	
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STATE OF DELAWARE)		
ss.:)		
COUNTY OF NEW CASTLE)		

ALAN HALPERN, being duly sworn, deposes and says:

1. I am the Vice President of Delaware Trust Company. I submit this affidavit in support of the motion pursuant to CPLR § 5240 (the "Motion") of Delaware Trust Company, not individually but solely in its capacity as Trustee ("Garnishee"), for a protective order vacating the restraining notice issued by Commissions Import Exports S.A., as Judgment Creditor in the above-captioned miscellaneous proceeding (the "Restraining Notice"). This affidavit is based upon my personal knowledge of the matters set forth herein.
2. Garnishee provides corporate trust services, and serves as an indenture trustee, registrar, and/or paying agent with respect to debt securities issued under securities offerings in the capital markets. Garnishee typically provides such services under the terms of a trust indenture, in which it acts as the representative of the holders of the debt securities.
3. As relevant to this Motion, Garnishee (as ultimate successor to HSBC Bank USA, N.A. (the "Original Trustee")) is the successor trustee, registrar, and paying agent under an Indenture, dated as of November 15, 2007 (the "Indenture") between the Republic of the Congo ("Judgment

Debtor”) and the Original Trustee. A true and correct copy of the Indenture is attached hereto as **Exhibit A.**

4. Pursuant to the Indenture, Judgment Debtor issued a series of U.S. Dollar Notes Due 2029 (the “Notes”), evidencing Judgment Debtor’s debt to the Holder of the Notes. As trustee and paying agent, Garnishee collects payments from Judgment Debtor, including principal and interest due on the Notes, and causes such payments to be distributed to the Holder according to the terms of the Notes and the Indenture.

5. “Holder” as defined by the Indenture, means “the Person in whose name a Security is registered in the Register.” The current Holder is HSBC Bank PLC.

6. On June 27, 2017, Garnishee received \$21,151,763.30 from the Judgment Debtor, consisting of \$13,617,015.00 in principal and \$7,534,748.30 in interest, due on the Notes. Those amounts were scheduled to be distributed to the Holder on June 30, 2017.

7. On June 29, 2017, Garnishee received two restraining notices from Judgment Creditor.

8. One of the restraining notices (which was received on June 29, 2017 via facsimile) was dated June 28, 2017, and was issued under the caption: *Commissions Import Export S.A. v. Republic of the Congo*, No. 1:13-cv-713-RLW (the “Judgment I Restraining Notice”). A true and correct copy of that Judgment I Restraining Notice is attached hereto as **Exhibit B.**

9. The other restraining notice Garnishee received, dated June 29, 2017, was issued under the caption: *Commissions Import Export S.A. v. The Republic of the Congo and Caisse Congolaise D’Amortissement*, No. 1:12-CV-000743-RCL (the “Judgment II Restraining Notice”). A true and correct copy of the Judgment II Restraining Notice is attached hereto as **Exhibit C.**

10. The Judgment I Restraining Notice was accompanied by a letter dated June 29, 2017 and signed by Judgment Creditor's attorney. A true and correct copy of the letter is attached hereto as **Exhibit D**.

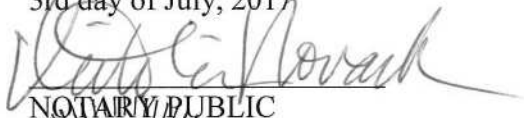
11. The Judgment I Restraining Notice was originally issued to Law Debenture Trust Company of New York. (the "Law Debenture Restraining Notice"), prior to being re-issued to Garnishee on June 29, 2017. A true and correct copy of the Law Debenture Restraining Notice is attached hereto as **Exhibit E**.

Dated: July 3, 2017



Name: Alan Halpern
Title: Vice President of Delaware Trust
Company, as Trustee

Sworn to before me this
3rd day of July, 2017



NOTARY PUBLIC

